

COUNTY OF YORK

2006

LEGISLATIVE PROGRAM



BOARD OF SUPERVISORS

James S. Burgett, Chairman

Walter C. Zaremba, Vice Chairman

Sheila S. Noll

Kenneth L. Bowman

Thomas G. Shepperd, Jr.

COUNTY ADMINISTRATOR

James O. McReynolds

COUNTY ATTORNEY

James E. Barnett

Prepared by the Office of the County Attorney

Introduction

The Board of Supervisors is pleased to commend this Legislative Program for consideration by the 2006 General Assembly. It was adopted and endorsed by the Board on September 20, 2005, by Resolution R05-162.

With the support of our legislators, I know that our County government will be improved and the quality of life for our citizens will be enhanced. If, during the course of the session, our legislators have questions concerning the position of the County on legislative matters, they are encouraged to contact James O. McReynolds, our County Administrator, at 890-3320, or James E. Barnett, our County Attorney, at 890-3340, who would be pleased to respond to any questions that you might have with regard to the legislation proposed.

James S. Burgett, Chairman
Board of Supervisors

BOARD OF SUPERVISORS
COUNTY OF YORK
YORKTOWN, VIRGINIA

Resolution

At a regular meeting of the York County Board of Supervisors held in the Board Room, York Hall, Yorktown, Virginia, on the ____ day of _____, 2005:

Present

Vote

James S. Burgett, Chairman
Walter C. Zaremba, Vice Chairman
Sheila S. Noll
Kenneth L. Bowman
Thomas G. Shepperd, Jr.

On motion of _____, which carried ____, the following resolution was adopted:

A RESOLUTION APPROVING THE COUNTY'S 2006 LEGISLATIVE PROGRAM

WHEREAS, because of the applicability of Dillon's Rule in Virginia, York County is dependent upon the General Assembly to adopt specific enabling legislation in many instances in order to enable the County to provide efficient and effective services and government to its citizens; and

WHEREAS, the County has developed a Legislative Program for the consideration of the 2005 session of the General Assembly which outlines certain legislative policies which the Board believes ought to guide the General Assembly and proposes certain legislation that would benefit the County; and

WHEREAS, the Board has carefully considered its legislative program, and believes that it is in the best interests of the citizens of York County;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this ____ day of _____, 2005, that this Board hereby approves the County's 2006 Legislative Program, and commends it to the County's representatives in the General Assembly for action.

BE IT FURTHER RESOLVED that copies of this Resolution and the County's 2006 Legislative Program be forwarded to the County's elected representatives to the General Assembly.

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York County Supports a Thorough Reassessment of Virginia's Current Tax Structure, but Opposes Using Tax Restructuring as a Vehicle for Shifting Additional Costs and/or Service Demands to Localities

We applaud the General Assembly's efforts to overhaul the Commonwealth's tax structure, and ask that the momentum of that effort, which seems to have lessened in recent years, be rediscovered. We believe the state's tax structure needs close scrutiny and significant changes. The current tax structure is a hodgepodge developed over many years, and is based on an industrial/agricultural economy which no longer exists in Virginia.

In general, York County believes that local governments should not be expected to bear a disproportionate burden of the implementation of statewide policies. It is our belief that the General Assembly should continue its efforts to construct a wholesale, comprehensive, and unified approach to a review of the Commonwealth's tax structure, and until such a review can be completed, to avoid making piecemeal changes to the tax statutes which limit local taxing authority. Further, York County believes that the taxing authorities of cities and counties should be equalized, and that the General Assembly should study ways to invest localities with increased direct taxing authority so that localities can shape their own tax structures to meet their individual needs.

Moreover, York County supports the adoption of legislation which would direct that 5% of state income tax revenues be returned to localities. Over the last few years, several proposals for a return of designated portions of state tax revenues to localities have been supported by the Virginia Municipal League, the Virginia Association of Counties, and other groups representing the combined interests of Virginia localities. To date, none of those proposals have been adopted. We ask the 2006 General Assembly to adopt appropriate legislation distributing 5% of all state income tax revenues to localities according to a formula based upon population figures. Any such legislation should simultaneously guarantee that the designation of a portion of state income tax revenues to localities will not be offset by reductions in other existing state revenue resources which support local government needs, or any reductions in local taxing authority.

Do not Restrict Local Government Authority to Establish Real Estate Tax Rates, or Place Artificial Limits on the Assessment of Real Property at Fair Market Value

Over the last several General Assembly sessions, bills have been introduced which, in one way or another, would either disengage the local real estate assessment process from actual fair market value (by, for example, establishing a property's tax assessed value as of the date of its most frequent sale) or placing caps on revenues which localities may raise through real estate taxation. In recent years, as real estate values have risen dramatically in some localities, there has been increasing pressure on the General Assembly to adopt legislation which would restrict local government authority by one means or another. Believing that government is best which is closest to the people, we feel that local government budgets and tax rates should be left entirely in the hands of elected local government officials who remain answerable to their constituents through the electoral process. We also believe that any taxing methodology based upon real estate values can be fair and equitable only if it is based upon actual values applied across the board. To adopt any other approach could result in similar, even adjacent, properties being taxed at markedly different rates, depending primarily on the date of the most recent transfer of title. We ask that the 2006 General Assembly refrain from adopting any legislation which interferes with the ability of local governments to establish budgets and tax rates based upon local needs, or which creates built in inequalities by uncoupling property assessments for tax purposes from actual fair market values.

**Adopt Legislation Guaranteeing that at Least
\$20 million of VDOT's Revenue Sharing Program
Funding be Earmarked for Counties, with each
County Eligible to Request at Least \$1 million
in State Funding on an Annual Basis**

For years, the County has included as an item in its legislative program a request that the state's budget for the VDOT Revenue Sharing Program be increased from \$15 million to \$20 million. At long last, the 2005 General Assembly did increase the funding for revenue sharing to a total of \$50 million and the individual locality cap to \$1 million, but at the same time made cities, as well as counties, eligible for participation in the program. Thus, the pie got larger, but the number of "slices" potentially increased, possibly leaving counties worse off than they were before. Indeed, last year's legislation provides that no single locality may receive more than \$1 million in state revenue sharing funding, but the chance that any county will actually receive that amount is diminished by virtue of cities being made eligible. We request that you adopt appropriate legislation to set aside at least \$20 million in the VDOT Revenue Sharing Program for use exclusively by counties, and allowing each county to request up to \$1 million in state funding on an annual basis.

The Commonwealth Should Increase its Support for Virginia's Tourism Industry

Tourism has long been one of Virginia's main industries, bringing in approximately \$15.2 billion in traveler spending to the state's economy in 2003, the last year for which figures are available. Of that amount, approximately \$711,500 was spent in the Historic Triangle area of Williamsburg, Jamestown and Yorktown on lodging, meals, entertainment, retail sales, and transient room occupancy. Income realized from tourism contributed an estimated 5.1% to the Virginia gross state product, and travel and tourism is the fifth largest private sector employer in Virginia with over 280,000 direct fulltime equivalency jobs in 2003, accounting for approximately 7.9% of total employment in the Commonwealth, and generating approximately \$2 billion in state and local tax revenues. And yet, with all of the tourist destinations Virginia has to offer, expenditures by the State Tourism Office ranked only slightly above the national average for states, with Virginia's 2004-2005 projected expenditures of \$13,522,808 exceeding the national average (\$12,824,199) by only approximately \$6.9 million. By comparison, our neighbor, West Virginia expends slightly in excess of \$23 million, and Pennsylvania spends approximately \$33 million, all competing for tourists in the highly populated northeast quadrant of the United States. In light of the continued sluggishness in tourism in Virginia, we believe that there should be a substantial increase in state expenditures for tourism related advertising in order to remind the public that Virginia's historic and recreational attractions are merely an automobile ride away from millions of Americans.

Fully Fund the Commonwealth's Responsibilities for Human Services Programs, and Implement Needed Program Changes for Services Offered to the Commonwealth's Neediest Citizens

In recent years, the General Assembly has followed a distressing trend of reducing funding for various Human Services programs, which has had the unfortunate result not only of scaling back programs as they formerly existed, but also hindering the expansion of those programs to meet the Commonwealth's growing needs. For example, the 2002 General Assembly enacted a sweeping reduction in funding for the Virginia Juvenile Community Crime Control Act, and similar reductions have been made in juvenile detention funding. Attached is a memorandum ("2005 – 06 Legislative Analysis, Human Services") which more particularly describes financial and administrative actions which the Board of Supervisors urges the General Assembly to enact.

In addition, we ask for the following:

- Provide full funding for state aid to public libraries, constitutional officers, juvenile and adult corrections, and other areas of shared responsibility, to the levels required by applicable statutes.
- Oppose any legislation which would require local matches for Medicaid, an idea which seems to be gaining some currency.
- Oppose and reverse the state's current practice of transferring funds generated through the "\$4 for Life" program to the state's general fund. The \$4 for Life program collects \$4 as part of each motor vehicle registration to be distributed to localities throughout the Commonwealth to be used for EMS purposes. However, since 2002, approximately \$3.5 million of those revenues have been transferred to the state's general fund. While those transferred funds were initially used for homeland security purposes, federal funding for homeland security appears to be sufficient while EMS \$4 for Life funds continue to be redirected away from local needs.
- Restore state funding for the Virginia Small Business Development Center (SBDC) Network. The SBDC Network is requesting \$1,000,000 in state funds to provide the cash match required for \$1,966,000 of federal grant funds provided by the U.S. Small Business Administration (SBA) in order to provide business management assistance, counseling and training to Virginia small businesses. This funding was eliminated in 2004 and was not restored by the 2005 General

Assembly. Last year this funding was partially provided by the state universities and community colleges participating in the SBDC Network and chambers of commerce throughout the state. However, as funding for higher education continues to be challenged it will be difficult for the universities and colleges to divert funding from critical areas such as teaching. Therefore renewed state matching funds are required. The SBDC Network provides critical support to small businesses that can't afford to hire costly consultants. The SBDC has an excellent track record of helping small businesses get started and helping existing ones expand. In small localities like York County the SBDC is often the only resource small businesses can turn to. As small business is the mainstay of our economy this service is vital and pays real fiscal dividends. Finally this funding will leverage almost \$2,000,000 in federal funding to support small business development efforts. George Mason University administers the program. We ask that you fund the full \$1,000,000 request for an increase in funding, and direct that George Mason University allocate the funding as follows:

- ◆ Northern Virginia Region - \$240,000
- ◆ James Madison University - \$190,000
- ◆ Radford University - \$190,000
- ◆ Longwood University - \$190,000
- ◆ Hampton Roads Region - \$190,000

Consolidate Telecommunication Taxes and Fees, and E-911 Services

The 2004 General Assembly passed legislation requiring a bill to be submitted in 2005 to eliminate local E-911 taxes, cable TV franchise fees and similar local taxes on telecommunications technology, and replace them with a state tax. Such legislation was introduced (HB 2880), but it was eventually adopted as a substitute requiring only a study to be prepared in time for the 2006 General Assembly. We ask that any such legislation include protection for local revenues through disbursements of state revenues to local government in an amount sufficient to offset all tax losses.

As a second matter, new personal communications technologies such as Voice Over Internet Protocol may soon allow consumers to utilize their internet connections for voice communications, in place of wireline telephone service. It is imperative for public safety purposes that any such technology be required to utilize software to identify the origin of any call made to E-911.

Electric Utility Restructuring

York County supports legislation guaranteeing that reasonable rates for electricity will be maintained since Virginia ranks among the states with the lowest rates for electricity. Any legislation deregulating the electric utility industry should contain safeguards so that prompt and efficient service to customers, especially for repairs, is not compromised. Furthermore, any proposals for electric utility restructuring should be revenue neutral to localities. York County supports proposed legislation that rebundles electricity in Virginia and maintains the powers of the SCC to regulate and set rates for the electric power companies operating in Virginia.

Do not Increase Local Government Tax Burdens When Restructuring the Personal Property Tax Relief Act

The 2005 General Assembly corrected what was perceived to be a significant issue regarding the implementation of the personal property tax relief act by, essentially, restructuring the Act into a block grant program, creating a \$950 million pool of money to provide grants to each of Virginia's localities based upon the value of "qualifying motor vehicles" as of the 2005 tax year. Localities will each distribute the available tax relief among their base of personal property taxpayers, using a methodology to be selected by each locality. However, there are currently no plans to increase available funding for this program in the future, meaning that over time the percentage of the total personal property tax burden in each jurisdiction which is assumed by the state will be annually reduced on a per capita basis as the number and value of automobiles increases in each jurisdiction. We request that the General Assembly provide funding for annual increases in the state's funding of the Act so that the percentage of the personal property tax burden assumed by the state remains constant over the years.

Reinstitute "Photo-red" Traffic Signal Enforcement in Virginia, and Authorize York County to Implement the Program

As you will recall from previous legislative programs, York County has for a number of years requested that it be included among those jurisdictions authorized to implement photo-monitoring of intersections for enforcement of compliance with traffic signals. In recent years, there have been several bills introduced which either would have added York County to that small number of jurisdictions authorized to implement such programs, or which would have allowed photo-monitoring programs throughout the Commonwealth. Unfortunately, none of those bills have ever been adopted by the General Assembly, and in fact in 2005, the General Assembly allowed the existing programs to expire by reason of a sunset provision which was part of the original legislation. Although there appears to be a gathering amount of support among members of the General Assembly and among the Commonwealth's localities for photo-monitoring as a valid means of increasing traffic safety, the House Committee on Militia, Police, and Public Safety continually prevents any such legislation from reaching the house floor. We ask that appropriate legislation be submitted to reinstitute the photo-monitoring traffic signal enforcement program, either making it statewide in its application, or at least adding York County to the list of jurisdictions who can implement the program.

Adopt Legislation Authorizing Local Governments to Regulate the Operation of Motorized Skateboards and Scooters, Electric Motor Powered Mini-bikes, and Similar Devices that do not Currently Fall within Statutory Definitions of Various Kinds of Motor Vehicles

Title 46.2 of the Code of Virginia contains the state statutes regulating the use of motor vehicles on public streets, and authorizes localities to require the use of safety equipment when using certain categories of motorized vehicles. Apart from the catchall definition of "motor vehicle", regulations are set forth for "bicycles," "electric power assisted bicycles," "electric personal assistive mobility devices" (a fancy name given to the device commonly sold and marketed under the trade name of Segway), "motorcycles", and "mopeds." Each of those terms is narrowly defined, so that, for example, a "moped" is either a bicycle-like device with pedals and a helper motor, or a motorcycle with an engine displacement of 50 cubic centimeters or less and a maximum speed of less than 30 mph.

Of late, numerous kinds of low powered motorized vehicles have been marketed to children which do not clearly fall within any of the referenced definitions for one reason or another. Because many of these devices are powered by electric motors, they do not clearly fall within the definition of a "moped" because electric motors are not measured in terms of their "displacement" as are gasoline engines. That leaves a host of motorized skateboards, mini-scooters, "pocket bikes," and the like which are often treated by law enforcement officers as being unregulated. If that is true, then localities would not have the authority to require helmets, face shields, or other safety equipment by the operators of such devices, as may be required of bicycles, mopeds, and other defined subcategories of motor vehicles. Five bills were introduced during the 2005 General Assembly, each taking a different approach to this issue. All were carried over to the 2006 General Assembly, including HB 2380, introduced by Delegate Rapp at the County's request. Although we would prefer the adoption of HB 2380 allowing localities to regulate these small vehicles as "motor scooters," we ask that the General Assembly give this matter its attention and adopt legislation which at least clarifies what regulatory authority localities have to ensure the safety of the public and operators of such devices.

Initiate a Study of the Possibility of Adoption of Homestead Exemptions and Other Alternatives for Tax Relief for the Elderly and Disabled

Virginia's tax structure requires local governments to rely on property taxation to provide for the majority of their tax revenues. This reliance, however, creates inequities which tend to penalize the elderly and the disabled, because in a time of rising real estate values, the ownership of taxable real estate does not necessarily correlate to the taxpayer's ability to pay, particularly where the taxable real property has been owned for a substantial period of time and by someone whom may now be on a fixed income. However, local governments have no option to create categories of taxpayers, but must assess a uniform rate of taxation against all real estate without any relief being provided for taxpayers whose incomes are fixed while the values of their real estate continue to soar. Rather than simply tell such taxpayers that they ought to sell their cherished homes and move into something cheaper and less desirable, it may be preferable to afford relief in the form of a homestead tax exemption with a "means test" so that, at least for the low income elderly and disabled, all or a portion of the value of real estate used as a principal residence could be excluded from taxation. A number of states have adopted such homestead tax exemptions, and the examples are too numerous and diverse to summarize here. We ask that the General Assembly institute a study of homestead tax exemptions and similar forms of tax relief for the elderly and disabled so that they can protect their homes from rising real estate taxes.

Reject any Proposed Limitations on the Use of Eminent Domain for the Acquisition of Property for Legitimate Governmental Purposes

The recent Supreme Court decision in *Kelo v. City of New London, Connecticut*, recognized that the use of eminent domain powers for economic development is a legitimate exercise of governmental power, even when land and buildings are condemned for the purpose of conveying them to private developers for urban revitalization. As a result of the widespread public outcry against the Supreme Court's ruling, many states have considered, or will soon be considering, legislation to effectively overrule the Supreme Court's opinion. Such legislation is expected to be introduced before the 2006 General Assembly. Certainly the issues raised in the *Kelo* decision are important and certainly worthy of discussion and debate by the General Assembly. But, there is a fear that opponents of the use of eminent domain will seek to use such legislation as an opportunity to restrict the use of eminent domain generally and encroach upon the ability of governments to use eminent domain in support of traditional public projects such as water and sewer projects and public buildings, and (in localities with housing authorities) for renovations of blighted residential areas. We request that the General Assembly, in considering any such legislation, refrain from narrowing the authority of state and local governments to utilize eminent domain for those kinds of public projects for which eminent domain has proven frequently to be a necessary tool.

Removal of Certain Appointed Members of Local Board and Commissions

Code of Virginia § 24.2-234 provides generally that any officer appointed to an office for a term established by law may be removed from that office prior to the expiration of the term only upon a petition filed with the circuit court unless the appointing person or authority is given the unqualified power of removal. As a general matter, the statutes authorizing or mandating the creation of various boards and commissions at the local government level do not give the local governing body the unqualified power to remove such individuals once they are appointed. As a consequence, the only recourse to remove an individual from, for example, a local planning commission, is to file a petition in circuit court and to prove either that he is guilty of neglect of duty, misuse of office, or incompetence, or that the appointee has committed one of several specified misdemeanors (*see* Code of Virginia § 24.2-233), and in addition that the commission of the misdemeanor, or of the neglect or misuse of office or incompetence has a material adverse effect upon the conduct of the office.

In a few isolated instances in the past, individuals appointed to local boards and commissions by the York County Board of Supervisors have failed to effectively perform their duties simply by virtue of a failure to attend meetings of the body to which they are appointed. We ask that bills be submitted to the General Assembly which would authorize a local governing body to remove a member of a planning commission, an economic development authority, or a wetlands board if the appointee misses any three meetings in a row, or four meetings in any twelve month period. Attached is draft legislation suitably amending Code of Virginia § 15.2-4904 (relative to economic development authorities), § 15.2-2212 (relative to planning commissions), and § 28.2-1303 (relative to wetlands boards) specifying that an appointee can be removed from one of those boards for missing meetings as described. Indeed, it is possible that the existing statute would allow removal of a member of a wetlands board for precisely such reason, given that the statute specifies that, with at least 15 days' notice, a member of a wetlands board may be removed for "malfeasance, misfeasance, or nonfeasance in office, or for other just cause." However, that statute does not specify that a failure to attend meetings constitutes proper grounds for removal, and we believe that it would be helpful for Code of Virginia § 28.2-1303 to be amended as shown on the attachment.

§ 15.2-4904. Directors; qualifications; terms; vacancies; compensation and expenses; quorum; records; certification and distribution of report concerning bond issuance.

A. The authority shall be governed by a board of directors in which all powers of the authority shall be vested and which board shall be composed of seven directors, appointed by the governing body of the locality. The seven directors shall be appointed initially for terms of one, two, three and four years; two being appointed for one-year terms; two being appointed for two-year terms; two being appointed for three-year terms and one being appointed for a four-year term. Subsequent appointments shall be for terms of four years, except appointments to fill vacancies which shall be for the unexpired terms. All terms of office shall be deemed to commence upon the date of the initial appointment to the authority, and thereafter, in accordance with the provisions of the immediately preceding sentence. If at the end of any term of office of any director a successor thereto has not been appointed, then the director whose term of office has expired shall continue to hold office until his successor is appointed and qualified. Notwithstanding the provisions of this subsection, the board of supervisors of Wise County may appoint eight members to serve on the board of the authority, with terms staggered as agreed upon by the board of supervisors, the board of supervisors of Henrico County may appoint 10 members to serve on the board of the authority, two from each magisterial district, with terms staggered as agreed upon by the board of supervisors, the town council of the Town of Saint Paul may appoint 10 members to serve on the board of the authority, with terms staggered as agreed upon by the town council, the board of supervisors of Russell County may appoint nine members, two of whom shall come from a town that has used its borrowing capacity to borrow \$2 million or more for industrial development, with terms staggered as agreed upon by the board of supervisors and the town council of the Town of South Boston shall appoint two at-large members and Halifax County shall appoint five at-large members to serve on the board of the authority jointly created by the Town of South Boston and Halifax County pursuant to § [15.2-4916](#), with terms staggered as agreed upon by the governing bodies of the Town of South Boston and Halifax County in the concurrent resolutions creating such authority. A member of the board of directors of the authority may be removed from office by the local governing body in the event that the authority member is absent from any three consecutive meetings of the authority, or is absent from any four meetings of the authority within any twelve-month period. In such event, a successor shall be approved by the governing body for the unexpired portion of the term of the member who has been removed.

B. Each director shall, upon appointment or reappointment, before entering upon his duties take and subscribe the oath prescribed by § [49-1](#).

C. No director shall be an officer or employee of the locality except in towns under 3,500 people where members of the town governing body may serve as directors provided they

do not comprise a majority of the board. Every director shall, at the time of his appointment and thereafter, reside in a locality within which the authority operates or in an adjoining locality. When a director ceases to be a resident of such locality, the director's office shall be vacant and a new director may be appointed for the remainder of the term.

D. The directors shall elect from their membership a chairman, a vice-chairman, and from their membership or not, as they desire, a secretary and a treasurer, or a secretary-treasurer, who shall continue to hold such office until their respective successors are elected. The directors shall receive no salary but may be compensated such amount per regular, special, or committee meeting or per each official representation as may be approved by the appointing authority, not to exceed \$200 per meeting or official representation, and shall be reimbursed for necessary traveling and other expenses incurred in the performance of their duties.

E. Four members of the board of directors shall constitute a quorum of the board for the purposes of conducting its business and exercising its powers and for all other purposes, except that no facilities owned by the authority shall be leased or disposed of in any manner without a majority vote of the members of the board of directors. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the powers and perform all the duties of the board.

F. The board shall keep detailed minutes of its proceedings, which shall be open to public inspection at all times. It shall keep suitable records of its financial transactions and, unless exempted by § [30-140](#), it shall arrange to have the records audited annually. Copies of each such audit shall be furnished to the governing body of the locality and shall be open to public inspection.

Two copies of the report concerning issuance of bonds required to be filed with the United States Internal Revenue Service shall be certified as true and correct copies by the secretary or assistant secretary of the authority. One copy shall be furnished to the governing body of the locality and the other copy mailed to the Department of Business Assistance.

§ 15.2-2212. Qualifications, appointment, removal, terms and compensation of members of local planning commissions.

A local planning commission shall consist of not less than five nor more than fifteen members, appointed by the governing body, all of whom shall be residents of the locality, qualified by knowledge and experience to make decisions on questions of community growth and development; provided, that at least one-half of the members so appointed shall be owners of real property. The local governing body may require each member of the commission to take an oath of office.

One member of the commission may be a member of the governing body of the locality, and one member may be a member of the administrative branch of government of the locality. The term of each of these two members shall be coextensive with the term of office to which he has been elected or appointed, unless the governing body, at the first regular meeting each year, appoints others to serve as their representatives. The remaining members of the commission first appointed shall serve respectively for terms of one year, two years, three years, and four years, divided equally or as nearly equal as possible between the membership. Subsequent appointments shall be for terms of four years each. The local governing bodies may establish different terms of office for initial and subsequent appointments including terms of office that are concurrent with those of the appointing governing body. Vacancies shall be filled by appointment for the unexpired term only. Members may be removed for malfeasance in office. A member of a local planning commission may be removed from office by the local governing body in the event that the board member is absent from any three consecutive meetings of the commission, or is absent from any four meetings of the commission within any twelve-month period. In such event, a successor shall be appointed by the governing body for the unexpired portion of the term of the member who has been removed.

The local governing body may provide for compensation to commission members for their services, reimbursement for actual expenses incurred, or both.

§ 28.2-1303. Appointment, terms, compensation, etc., of local wetlands boards; jurisdiction of county wetlands board over wetlands in town.

A. Every county, city, or town that enacts a wetlands zoning ordinance pursuant to this chapter shall create a wetlands board, consisting of five or seven residents of that jurisdiction appointed by the local governing body. All board members' terms shall be for five years, except that the term of at least one of the original appointments shall expire during each of the succeeding five years. The chairman of the board shall notify the local governing body at least 30 days prior to the expiration of any member's term and shall promptly notify the local governing body if any vacancy occurs. Vacancies shall be filled by the local governing body without delay upon receipt of such notice. Appointments to fill vacancies shall be for the unexpired portion of the term. Members may serve successive terms. A member whose term expires shall continue to serve until his successor is appointed and qualified. Members of the board shall hold no public office in the county or city other than membership on the local planning or zoning commission, the local erosion commission, the local board of zoning appeals, a board established by a local government to hear cases regarding ordinances adopted pursuant to the Chesapeake Bay Preservation Act and regulations promulgated thereunder, or as director of a soil and water conservation board. When members of these local commissions or boards are appointed to a local wetlands board, their terms of appointment shall be coterminous with their membership on those boards or commissions. The governing body shall also appoint at least one but not more than three alternate members to the board. The qualifications, terms, and compensation of alternate members shall be the same as those of members. Any member who knows that he will not be able to attend a board meeting shall notify the chairman at least 24 hours in advance of such meeting. The chairman shall select an alternate member to serve in place of the absent member at the board meeting, which shall be noted in the records of the board.

B. Upon a hearing with at least 15 days' notice thereof, any board member may be removed for malfeasance, misfeasance, or nonfeasance in office, or for other just cause, by the local governing body. Without limitation, a board member may be removed from office by the local governing body in the event that the board member is absent from any three consecutive meetings of the board, or is absent from any four meetings of the board within any twelve-month period. In such event, a successor shall be appointed by the governing body for the unexpired portion of the term of the member who has been removed.

C. If a town does not enact a wetlands zoning ordinance within one year of its enactment by the surrounding county, application for permits to use and develop wetlands within the town shall be made to the county wetlands board.

D. Any county, city, or town that creates a local wetlands board pursuant to this section may compensate the members of the board in accordance with such terms and conditions as the locality may prescribe.

E. Notwithstanding any other provision of this section, the Town of Dumfries in Prince William County may enact a wetlands zoning ordinance pursuant to the provisions of this chapter.